

### **REMARKS**

This amendment is in response to the Office Action dated September 16, 2004. This response is timely filed. Although no fees are believed due, please charge any necessary fees and credit any underpayments to Deposit Account No. 50-0951.

At the time of the office action, claims 1-5 were pending. The Office Action rejected claims 1-3 under 35 U.S.C. §102(b). The rejections are discussed in more detail below. Minor amendments have been made to claim 3 to address the objections for informalities. No new matter has been introduced.

#### **I. Review of Claims**

Before addressing the rejections on art, a brief review of the recited claim language is appropriate. Claim 1 is directed to a sleeve and recites an elasticated netting provided with a seam. When the product is encapsulated by the sleeve, a portion of the sleeve will project from the product and will not become embedded in the surface of the product when it is cooked. Claim 2 further recites that the seam extends longitudinally of the sleeve offset from the centre of the sleeve, so that the projection is a small proportion of the width of the sleeve isolated by the seam from the remainder of the sleeve. Also, claim 3 recites that the seam is sewn with yarn stitches which will unravel when an end of the yarn is pulled.

#### **II. Rejections on Art**

The office action rejected claims 1-3 under 35 U.S.C. §102(b) as being anticipated by German Patent No. 2546278B1 to Maar ("Maar"). In support of these rejections, the Office Action asserted that

[w]ith regard to claim 1, Maar discloses a sleeve (flexible tube; page 9, line 2 of second paragraph of English translation) of netting (a net; page 10, lines 4-5 of first paragraph of English translation) that is elasticated (it consists of threads of a highly elastic material; page 10, lines 12-14 of English translation) provided with a seam (a connection between longitudinal threads '4' and an opposite mesh '2' by a pull thread '7' as shown in Figure 1; page 10, lines 17-19 of English translation) such that when a product is encapsulated by the sleeve a portion of the sleeve will project from the product (Maar discloses that the sleeve encases the product entirely, because Maar discloses on page 7, lines 7-8 of the third paragraph that the product, a roast, has the same structure, the structure of the netting, on its entire surface; because the length of the of the pull thread extends beyond the length of the net, as shown in Figure 1, the length of

the pull thread also extends beyond the length of the product, and therefore projections from the product because it is displayed outwardly by the product, and it is therefore a portion of the sleeve that projects from the product) and will not become embedded in the surface of the product when it is cook (in the condition of roasting, the net imparts only an extremely slight radial force so that the net is not pressed into the roasting crust; page 6, final line of the second paragraph; page 7, lines 1-3 of English translation). *Office Action*, pgs. 2-3, ¶ 3.

Nevertheless, in contrast to the assertions set forth above, Maar does not teach or suggest each and every element as recited in the claims of the present application. For example, Maar does not teach or suggest an elasticated netting. Maar clearly describes that the netting is not elasticated by noting “the diameter of the net in the non-expanded condition is determined exclusively by the number of *meshes which are not capable of expansion.*” *Maar*, English translation, p. 9, lines 13-15 (emphasis added). Instead of disclosing an elasticated netting, Maar is directed to an “invention consisting essentially of non-elastic mesh” with additional expansion strips 5. *Maar*, English translation, p. 6, lines 12-13. Thus, the unitary elasticated netting recited in the present application is clearly a novel improvement over the apparatus of Maar that has two distinct components, *i.e.* (1) a non-elastic mesh, and (2) expansion strips, which must be assembled by the user.

Moreover, not only does Maar not teach or suggest an elasticated netting as recited in the claims to support an anticipate rejection under §102(b), Maar cannot properly be used to support an obviousness rejection under §103(a). Maar actually teaches away from an elasticated netting by noting “it is completely sufficient that instead of using totally elastic transverse elements a limited expansion strip can be provided in the net circumference to achieve a sufficient expansion capability and simultaneously a sufficient radial force to hold the encased item together.” *Maar*, English translation, p. 9, lines 8-13.

Maar also does not teach or suggest a seam where a portion of the sleeve will project from the product and will not become embedded in the surface of the product when it is cooked. In contrast to the assertion that the pull thread 7 of Maar constitutes a portion of the sleeve that projects from the product, the simple pull thread 7 is not properly characterized as a portion of the sleeve, and it is certainly not projecting from the product.

As shown in the comparison above, the pull thread 7 is not properly characterized as a projection of the sleeve as it is merely a hanging thread. Additionally, the projecting sleeve provides for easy handling of the sleeve without risk of burning oneself because the user can grasp the portion of the sleeve that projects away from the hot cooked product. Maar does not teach or suggest that the portion of the sleeve projecting from the product can be used as a handle by user. In fact, if the pull thread 7 is handled by the user, the net of Maar will release the product. Thus, the projection of the seam is an elegant and simple solution to the problems of preventing the sleeve from penetrating the surface of product, which complicates removal of the sleeve from the cooked product, and for providing a projecting portion for user handling.

In light of the reasoning set forth above, Applicant respectfully submits that claim 1 is patentable over the references of record. Additionally, claims 2 and 3 are believed to be allowable due to their dependence upon an allowable base claim and for further features recited therein.


### **III. Conclusion**

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

**AKERMAN SENTERFITT**

Date: December 16, 2004

  
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Docket No. 9100-8